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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/577,212	04/25/2006	Holger Leicht	10191/4238	3343
26646 7590 04/30/2009 KENYON & KENYON LLP ONE BROADWAY NEW YORK, NY 10004				
EXAMINER SWARTHOUT, BRENT				
ART UNIT 2612		PAPER NUMBER		
MAIL DATE 04/30/2009		DELIVERY MODE PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/577,212

Applicant(s)

LEICHT, HOLGER

Examiner

Brent A. Swarthout

Art Unit

2612

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 April 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 8, 9, 11, 12 and 14-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 8, 9, 11, 12, 16 and 18 is/are allowed.
- 6) ☒ Claim(s) 14, 15, 17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/S508)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Forbes et al. in view of Yoshinori or Yoshinori, Bender et al. and Hightower, and further in view of Sato et al., Stafsudd et al. and Andersen et al.

Forbes discloses a lane assist system for a vehicle comprising a sensor device 102/104 for detecting lanes, device 406 for alerting a driver that vehicle is or may depart from a lane, except for specifically stating that warning involves a vibration in a seat indicating which direction lane deviation is occurring or that automatic steering is used. It is noted that elements 408 and 410 do teach desirability of indicating to which side lane deviation is occurring.

Bender teaches desirability in a lane deviation warning system of using either visual or seat vibrating means to alert a driver to lane deviation (col. 6, lines 17-19).

Hightower further teaches desirability in a vehicle of vibrating either side of a seat to indicate direction of deviation of a vehicle from a desired path (abstract).

Furthermore, Yoshinori teaches desirability in a vehicle warning system of providing vibration alerts at portions of a seat corresponding to direction of a threat approaching from behind when a vehicle is changing lanes (abstract).

Sato teaches desirability in a vehicle alarm system of providing warning when a vehicle is rapidly approaching from behind (col. 16, lines 3-5).

Stafsudd teaches desirability of utilizing automatic steering to correct course of vehicle when lane deviation is detected (paragraph 6).

It would have been obvious to utilize left and right seat vibration means to indicate which direction a vehicle was deviating a lane at with an approaching vehicle and to use automatic steering correction, in a system as disclosed by Forbes, since Bender and Hightower teach desirability of using , vibrations to indicate course deviation direction, Stafsudd teaches desirability of automatically steering a vehicle responsive to lane deviation and Yoshinori teaches direction of lane change with approaching vehicle, which would have permitted notification even in noisy or bright environments where light and sound alerts would have been distracting or hard to detect. Choosing to indicate rapidly approaching vehicles as suggested by Sato would have been further obvious in order to avoid nuisance alerts from slowly approaching vehicles that did not present a hazard.

Furthermore, Andersen teaches desirability of providing a vibrational alert to a user of a certain condition and for providing a secondary audible and visual alert if the vibrational alert is not heeded (col. 5, lines 57-67).

It would have been obvious to provide a secondary alert as suggested by Andersen in conjunction with the vibration alert system as disclosed by Forbes, Yoshinori, Bender and Hightower, in order that a user could have still been alerted to a hazardous condition even if a preliminary warning was not detected.

2. Claims 14,15 and 17 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claims are non-statutory

since they recite purely mental steps without reciting the structural elements necessary to accomplish the method steps.

3. Claims 8,9,11,12,16 and 18 are allowed.

4. Regarding remarks filed with the response on 4-2-09, on page 7 it is stated that references do not show vibration of a mat underneath a seat which is activated separately for left and right sides. However, since Bender and Hightower teach desirability of activating a seat vibration system which can be activated on either side of the seat depending on which side of the vehicle a condition pertains to, choosing to have the vibration means be a mat as opposed to equivalent other vibrating seat means would have been obvious to one of ordinary skill in the art, merely depending on whether a system designer desired to have an integral seat system or one which could be retrofitted to existing seats. It is noted that claim 17 does not include limitation as set forth in allowable claim 16 that warning is given when driver has not reacted to vibration and the vehicle continues to depart the lane or threatens to depart the lane.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brent A. Swarthout whose telephone number is 571-272-2979. The examiner can normally be reached on M-Th from 6:00 to 3:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Benjamin Lee, can be reached on 571-272-2963. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Brent A Swarthout/
Primary Examiner, Art Unit 2612

Brent A Swarthout
Primary Examiner
Art Unit 2612